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May 13, 2021

Honorable Eric R. Komitee
United States District Judge
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201
* Via ECF *

Re: *U.S. v. Orena*; 92-cr-351 (EK) (Related: 20-cv-4548 (EK))

Dear Judge Komitee:

I represent Mr. Victor Orena, in the above-referenced case.

During a status conference held in this case on April 30, 2021, I advised the Court that, based on Mr. Orena's multiple debilitating medical issues, in addition to the matters for which this case was sent to this Court by the Second Circuit, I intend to file a motion for Mr. Orena's compassionate release, pursuant to 18 U.S.C. §3582. Government counsel raised a question as to whether such a motion would be ripe, given the procedural posture of the case. The Court gave the government an opportunity to look further into the issue and to file its position.

After a brief email exchange between us indicated an agreement on a relevant procedural posture issue, the government wrote to the Court later on April 30, 2021, advising the Court that it had concluded that the filing of a §3582 motion would, indeed, be ripe, given the fact that, while both parties agree that the firearm count at issue must be vacated and the case must be set for a full *de novo* re-sentencing, the current sentence being served by Mr. Orena has not yet been vacated. Therefore, the current sentence can be the object of a §3582 motion.

On May 12, 2021, Your Honor entered a Text Order directing me to respond to the government's April 30, 2021 letter and to advise the Court whether Mr. Orena wishes to have the Court hold in abeyance his §2255 motion (which will include the associated *de novo* re-sentencing and the presentation of the additional issues Mr. Orena seeks to raise through his §2255 motion), pending the outcome of a forthcoming §3582 compassionate release motion.

I write today to advise the Court that Mr. Orena does, indeed, believe that the most

Honorable Eric R. Komitee
May 13, 2021
Page 2

appropriate course (and his desired course) is for me to file his §3582 motion and to ask the Court to hold the other matters in abeyance pending the outcome of the compassionate release motion.

I plan to file Mr. Orena's §3582 motion within the next two weeks. I had hoped to file it even sooner; but the medical records I have to review are very voluminous. I want to be able to review everything and cull through the full body of records in order to give the Court an accurate and meaningful picture of Mr. Orena's condition and explain why I believe his immediate compassionate release is fully appropriate under the statute and all relevant factors, without overloading the Court with documents and information. There are two days next week on which I cannot work for religious reasons; but I will otherwise continue to work diligently on the §3582 motion in order to file it within two weeks or sooner.

I hope this letter sufficiently answers the Court's directive.

Respectfully,

/s/ David I. Schoen
Counsel for Victor J. Orena

cc: AUSA Elizabeth Geddes, Esq. (Via ECF)